

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

Hunter W.,

Claimant,

v.

South Central Los Angeles  
Regional Center,

Service Agency

OAH Case No. 2010030869

**DECISION**

Administrative Law Judge Elwood B. Hain, Jr., Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on May 31, 2011.

Claimant's mother and father (parents) represented Hunter W., Claimant.<sup>1</sup> Claimant was not present.

Johanna Arias-Bhatia, Fair Hearing Coordinator, represented South Central Los Angeles Regional Center (Regional Center, Service Agency or SCLARC).

Oral and documentary evidence was received and the matter was submitted on May 31, 2011.

**ISSUE**

Shall the Service Agency fund a speech camp and a social thinking support group for Claimant?

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<sup>1</sup> The first letter of Claimant's last name is used to preserve Claimant's confidentiality.

## FACTUAL FINDINGS

1. Claimant is a seven-year-old male who is eligible for Regional Center services based on his diagnosis of autism.

2. As a consequence of his autism, Claimant has difficulty speaking and relating to others. Some of those deficits are in the areas of speech, including receptive and expressive speech, decoding, processing, attending to verbal directions, completing sentences, connecting idea, articulating words audibly, and syntax. He struggles with completing sentences, connecting ideas and articulating words audibly. Other effects of his autism are that he has difficulty sustaining attention, loses interest quickly, is easily distracted, has difficulty processing information and has both general and specific anxiety.

3. Claimant has other deficits in the area of relationships with peers and adults. For example, he has difficulty with reciprocal dialogues and sustaining engagement with both peers and adults and is subject to panic attacks during efforts to communicate. His anxiety level has increased in the last year, resulting in more frequent emotional outbursts. He would likely benefit from speech and socialization training, both of which were recommended by private consultants who examined Claimant.

4. Because his disruptive and inattentive behaviors could be accommodated only if he had a fulltime 1:1 aide, which was not feasible, Claimant was asked not to return to the private school he attended in 2009-2010. He now attends a public school where he receives unspecified ancillary assistance from a resource teacher and an autism specialist. He has regular speech and language training, paid for by Los Angeles Unified School District (LAUSD), at the California State University Northridge Language, Speech, and Hearing Center. There was evidence that these speech services are expected to be time limited.

5. Claimant lives at home with his parents. His ability to continue living there is not in jeopardy.

6. The Service Agency currently provides respite services for Claimant. In October 2010 the Service Agency provided 16 hours a month of respite. The service coordinator requested an increase to 24 hours. At least some of the increase was granted but the record does not show the exact number of hours now provided. The Regional Center provides no other services to Claimant.

7. In July 2009, the Service Agency funded a week of speech camp for Claimant. The camp, called Say and Play, was provided by Los Angeles Speech and Language Therapy Center, Inc. There was no evidence of the nature of the program or the specific benefits of the Say and Play speech camp, although the parents thought it had been beneficial. That camp is no longer available to Hunter as it accepts campers no older than age five. Claimant introduced evidence regarding Camp Cali, another camp that is available to him. It is a typical camp with a component for children with autism. There was evidence that Claimant's parents asked about funding for a winter speech camp in either 2009 or 2010.

8. In August 2009, the Service Agency funded a month of socialization training for Claimant. It was provided by Leaps N Boundz, LLC. Claimant attended Leaps N Boundz from August 1 to August 31, 2009. The children participated in a two hour interactive routine that incorporates movement, auditory and sensory strategies to encourage each child to physically and mentally tolerate, explore and build upon relationships with their peers. The group met weekly. (Exhibit 9) Claimant's parents reported that he experienced improvement in social reciprocity and peer interaction. (Exhibit 5)

9. The Service Agency sent Claimant's parents a Notice of Proposed Action (NOPA) letter dated September 15, 2009, informing them that the Service Agency would terminate the services provided to Claimant by "LA Speech and Language," the operator of the speech camp Claimant had attended. The letter stated that the action was required by Welfare and Institutions Code section 4648.5, subdivision (a) (the Trailer Bill). The letter did not mention the Leaps and Bounds socialization training by name, but stated that the Trailer Bill prohibited the Service Agency from paying for certain services, including social recreation, camps and non-medical therapies. The Service Agency has not funded socialization training or any kind of camp for Claimant since the date of the Notice of Proposed Action.

10. Claimant's parents submitted a request for fair hearing dated October 10, 2009, for the services denied in the NOPA, asking for funding of a social thinking support group and an annual speech camp, and this hearing ensued.

11. According to Leah Chin, a program manager at SCLARC, the Regional Center considers a social thinking support group to be socialization training and a nonmedical therapy, which the Regional Center is prohibited from funding under the Trailer Bill. Regional Center also does not believe an exemption from the Trailer Bill is appropriate because it does not consider socialization training or speech camp to be a primary or critical means for ameliorating the physical, cognitive or psychosocial effects of Claimant's autism. Ms Chin further believes that the services provided Claimant by LAUSD are generic services that address Claimant's socialization and speech needs.

12. The Regional Center considers an extraordinary circumstance to exist that would allow it to fund prohibited Trailer Bill services if a claimant is at risk of being moved out of his home or losing his school placement because of his speech or social deficits, or if the claimant is unable to use generic services. Regional Center concluded that there were no extraordinary circumstances to justify its funding of speech camp or socialization training for Claimant. The Regional Center made no effort to determine whether Claimant's school placement was in jeopardy before it sent the NOPA to Claimant's parents.

13. Regional Center's decision to terminate Claimant's speech camp services and socialization training did not threaten Claimant's placement at home and there was no evidence of the effect on his school placement. While Regional Center asserted that there are generic social interaction services in the community, there was no evidence that the Regional

Center had any knowledge of the content of those programs or how they compare to the program Claimant seeks to attend.

14. The Regional Center determines whether a service is critical to a consumer for purposes of granting an exception for services the Trailer Bill prohibits by seeking the opinion of a clinician who uses his or her own criteria in making the determination. Those criteria are the kind normally used for the specific type of service. The clinician who evaluated the services requested by Claimant was a speech pathologist who frequently consults with the Service Agency. The speech pathologist examined Claimant's file but did not personally observe him. She informed the Regional Center of her conclusion that the services sought by Claimant were not critical, but she did not report her specific findings to the Regional Center.

### LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act), codified under Welfare and Institutions Code section 4500 et seq., acknowledges the state's responsibility to provide services and supports for individuals with developmental disabilities. It also recognized that services and supports should be established to meet the needs and choices of each person with developmental disabilities. (Welf. & Inst. Code § 4501.)

2. Services provided must be cost effective. The Lanterman Act requires the regional centers to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (Welf. & Inst. Code, §§4659, subd. (a), and 4646.4, subd. (a).).

3. Responding to the State's on-going financial problems, the Legislature has forbidden regional centers to pay for camping services, social recreation activities other than those vendored as community-based day programs, educational programs for children ages three to 17, and nonmedical therapies, including specialized recreation. Welfare and Institutions Code Section 4648.5, subdivision (a), provides, "[R]egional centers' authority to purchase the following services shall be suspended . . . (1) Camping services and associated travel expenses. (2) Social recreation activities, except for those activities vendored as community-based day programs. (3) Educational services for children three to 17, inclusive, years of age. (4) Nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music."

4. The Welfare and Institutions Code contains a narrow exception to the prohibition provided for in section 4648.5, subdivision (a). Section 4648.5, subdivision (c) provides, "An exemption may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a) when the regional center determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer's developmental disability, or the service

is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs.”

5. The speech camp that Claimant has asked the Service Agency to fund is a suspended service described in Welfare and Institutions Code section 4648.5, subdivision (a), based on Factual Finding 7, in that it is a camping service, a social recreation activity, or a nonmedical therapy. Although Claimant may benefit from it, Claimant did not prove that attendance at a speech camp is a primary or critical means for ameliorating the physical, cognitive or psychosocial effects of Claimant’s developmental disability; nor did Claimant prove that attendance at a speech camp is necessary to enable Claimant to remain in his home. (Factual Findings 2, 3, 4 and 7.)

6. The social thinking support group that Claimant has asked the Service Agency to fund is not a social recreation program but a program aimed at teaching specific skills of interpersonal communication. It is a nonmedical therapy and is therefore a suspended service described in Welfare and Institutions Code section 4648.5, subdivision (a), based on Factual Finding 8. Although Claimant may benefit from it, Claimant did not prove that it is a critical or primary means of ameliorating the physical, cognitive or psychosocial effects of Claimant’s autism; nor did Claimant prove that a social thinking support group is necessary to enable Claimant to remain in his home. (Factual Findings 3, 8, and 12-14.)

## ORDER

Claimant Hunter W.’s appeal is denied. South Central Los Angeles Regional Center is not required to fund speech camp or social thinking support group services for Claimant.

DATED: July 1, 2011

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ELWOOD B. HAIN, JR.  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

**Under the Lanterman Developmental Disabilities Services Act, this is a final administrative decision, and both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.**